

1 ROBINS KAPLAN LLP
2 Roman M. Silberfeld, Bar No. 62783
3 RSilberfeld@ robinskaplan.com
4 Bernice Conn, Bar No. 161594
5 BConn@ robinskaplan.com
6 David Martinez, Bar No. 193183
7 DMartinez@ robinskaplan.com
8 Lucas A. Messenger, Bar No. 217645
9 LMessenger@robinskaplan.com
10 2049 Century Park East, Suite 3400
11 Los Angeles, CA 90067-3208
12 Telephone: 310-552-0130
13 Facsimile: 310-229-5800

14 Attorneys for Plaintiffs

15 BEST BUY CO., INC.; BEST BUY PURCHASING LLC; BEST
16 BUY ENTERPRISE SERVICES, INC.; BEST BUY STORES,
17 L.P.; BESTBUY.COM, LLC

18
19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN FRANCISCO DIVISION**

22 IN RE: CATHODE RAY TUBE (CRT)
23 ANTITRUST LITIGATION

24 Master File No. 3:07-cv-05944-SC
25 MDL No. 1917

26 This Document Relates to:

27 *Best Buy Co. Inc. et al. v. Hitachi, Ltd. et al.*,
28 No. 3:11-cv-05513-SC

29 *ViewSonic Corp. v. Chunghwa Picture Tubes,*
30 *Ltd. et al.*, No. 3:14-cv-02510-SC

31 **DECLARATION OF LUCAS A.
32 MESSENGER IN SUPPORT OF
33 OPPOSITION TO CHUNGHWA
34 PICTURE TUBES, LTD. AND
35 CHUNGHWA PICTURE TUBES
36 (MALAYSIA) SDN. BHD.'S MOTION
37 IN LIMINE TO EXCLUDE OPINIONS
38 REGARDING ACTUAL DAMAGES
39 ATTRIBUTABLE TO THE
40 CHUNGHWA DEFENDANTS**

41 **[DEFENDANTS' MIL NO. 21]**

42 Date: TBD
43 Time: TBD
44 Place: Courtroom 1
45 Judge: Hon. Samuel Conti

1 I, Lucas A. Messenger, declare and state as follows:

2 1. I am admitted to practice before this Court and am an associate with the law firm
 3 of Robins Kaplan LLP, counsel for Plaintiffs Best Buy Co., Inc., Best Buy Purchasing LLC, Best
 4 Buy Enterprise Services, Inc., Best Buy Stores, L.P., and Bestbuy.com, L.L.C. in the above-
 5 captioned action currently pending in the United States District Court for the Northern District of
 6 California. I make this declaration in support of Plaintiffs' OPPOSITION TO CHUNGHWA
 7 PICTURE TUBES, LTD. AND CHUNGHWA PICTURE TUBES (MALAYSIA) SDN. BHD.'S
 8 MOTION IN LIMINE TO EXCLUDE OPINIONS REGARDING ACTUAL DAMAGES
 9 ATTRIBUTABLE TO THE CHUNGHWA DEFENDANTS. The facts set forth herein are true
 10 of my own personal knowledge, except where based on a review of the pleadings and records in
 11 this action, and, if called as a witness, I could and would competently testify thereto.

12 2. Dr. Alan S. Frankel is an expert witness retained by Plaintiffs in the above-
 13 captioned actions. On July 10, 2014, Dr. Frankel testified as a damages expert. Attached hereto
 14 as Exhibit A is a true and correct copy of relevant portions of Dr. Frankel's certified deposition
 15 transcript.

16 3. Dr. James T. McClave is an expert witness retained by Plaintiffs in the above-
 17 captioned actions. On April 15, 2014, Dr. McClave submitted an expert report. Attached hereto
 18 as Exhibit B is a true and correct copies of his expert report.

19 4. On September 26, 2014, Dr. McClave submitted a rebuttal report. Attached hereto
 20 as Exhibit C is a true and correct copy of his rebuttal report.

21 5. Attached hereto as Exhibit D is a true and correct copy of THE TOSHIBA
 22 ENTITIES' TRIAL BRIEF TO STRIKE THE TESTIMONY OF BEST BUY'S EXPERTS, B.
 23 DOUGLAS BERNHEIM AND ALAN FRANKEL that was filed on August 14, 2013 in *Best Buy*
 24 *Co., Inc., et al. v. Toshiba Corp., et al.*, Case No. 12-CV-4114 SI, at Docket No. 8452, in the
 25 LCD MDL (MDL No. 1827).

26 6. Attached hereto as Exhibit E is a true and correct copy of BEST BUY'S
 27 OPPOSITION TO TOSHIBA'S MOTION TO STRIKE THE TESTIMONY OF BEST BUY'S
 28 EXPERTS B. DOUGLAS BERNHEIM AND ALAN FRANKEL that was filed on August 19,

1 2013 in *Best Buy Co., Inc., et al. v. Toshiba Corp., et al.*, Case No. 12-CV-4114 SI, at Docket No.
 2 8476, in the LCD MDL (MDL No. 1827).

3 7. Attached hereto as Exhibit F is a true and correct copy of excerpts from the
 4 certified transcript of the proceedings dated August 26, 2013 in IN RE: TFT-LCD (FLAT-
 5 PANEL) ANTITRUST LITIGATION, NO. C 07-MDL-1827 SI (Individual Cases: CASE NO.
 6 10-CV-4572 and CASE NO. 12-CV-4114).

7 8. On April 15, 2014, Dr. Frankel submitted an expert report on behalf of Best Buy.
 8 Attached hereto as Exhibit G is a true and correct copy of the expert report for Best Buy (the
 9 “Best Buy Report”).

10 9. On April 28, 2014, Dr. Frankel submitted an errata to the Best Buy Report.
 11 Attached hereto as Exhibit H is a true and correct copy of the errata to the Best Buy Report.

12 10. On June 6, 2014, Dr. Frankel submitted an expert report on behalf of ViewSonic
 13 Corporation (“ViewSonic”). Attached hereto as Exhibit I is a true and correct copy of the expert
 14 report for ViewSonic.

15 11. On June 30, 2014, Dr. Frankel submitted a supplemental report on behalf of Best
 16 Buy. Attached hereto as Exhibit J is a true and correct copy of the supplemental report on behalf
 17 of Best Buy.

18 12. On June 30, 2014, Dr. Frankel submitted a supplemental report on behalf of
 19 ViewSonic. Attached hereto as Exhibit K is a true and correct copy of the supplemental report on
 20 behalf of ViewSonic.

21 13. On September 26, 2014, Dr. Frankel submitted a rebuttal report on behalf of Best
 22 Buy. Attached hereto as Exhibit L is a true and correct copy of the rebuttal report on behalf of
 23 Best Buy.

24 14. On September 26, 2014, Dr. Frankel submitted a rebuttal report on behalf of
 25 ViewSonic. Attached hereto as Exhibit M is a true and correct copy of the rebuttal report on
 26 behalf of ViewSonic.

27 15. On October 24, 2014, Dr. Frankel testified again as an expert witness in the instant
 28 actions.

1
2
3 I declare under penalty of perjury under the laws of the United States of America and the
4 State of California that the foregoing is true and correct.
5

6 Executed this 27th day of February 2015 in Los Angeles, California.
7
8

/s/ *Lucas A. Messenger*

Lucas A. Messenger

ROBINS KAPLAN LLP
ATTORNEYS AT LAW
Los Angeles